

14 MISC 00193

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**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK**

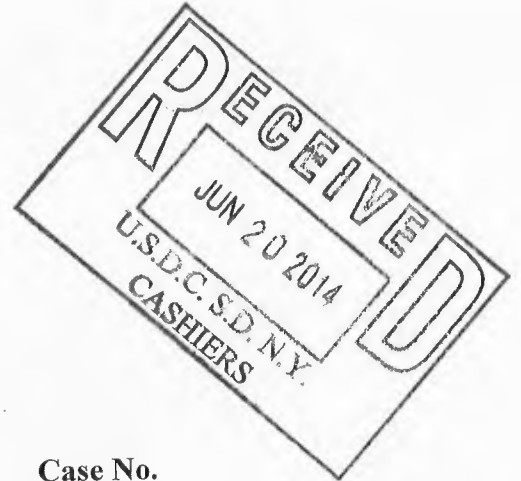
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SECURITIES AND EXCHANGE COMMISSION,

Applicant,

-against-

**THE COMMITTEE ON WAYS AND MEANS OF
 THE U.S. HOUSE OF REPRESENTATIVES and
 BRIAN SUTTER,**

Respondents.
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**Case No.
 ECF Case**

**SECURITIES AND EXCHANGE COMMISSION'S
 APPLICATION FOR AN ORDER TO SHOW CAUSE AND
 FOR AN ORDER REQUIRING COMPLIANCE WITH SUBPOENAS**

The Securities and Exchange Commission ("Commission"), by its undersigned counsel, respectfully submits this Application for an Order to Show Cause and for an Order Requiring Compliance with Subpoenas ("Application"), together with the supporting Memorandum of Law and Declaration of Amanda L. Straub ("Straub Declaration") and exhibits thereto, based on the following:

1. Respondents, the Committee on Ways and Means of the U.S. House of Representatives (the “Committee”) and Brian Sutter (“Sutter”), have refused to comply with lawful Commission investigative subpoenas (the “Subpoenas”). The Subpoenas require each Respondent to produce documents to the Commission in the Commission’s investigation titled *In the Matter of Humana Inc.* (Internal File No. NY-8910) (the “Humana Investigation”). The Sutter Subpoena also requires him to provide sworn testimony.

2. On April 9, 2013, pursuant to delegated authority, the Commission issued an Order Directing Private Investigation and Designating Officers to Take Testimony (the “Formal Order”) pursuant to Section 21(a) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78u(a).

3. Pursuant to the Formal Order, the Commission staff is investigating whether certain persons have violated or are violating anti-fraud and other provisions of the federal securities laws, including Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder, by trading in the securities of Humana Inc. or other issuers, on the basis of material nonpublic information.

4. The Formal Order designates certain individuals as officers of the Commission empowered to subpoena witnesses, to take evidence, and to require the production of any records deemed relevant or material to the investigation, pursuant to Section 21(b) of the Exchange Act, 15 U.S.C. § 78u(b).

5. On May 6, 2014, one of the designated Commission officers properly issued the Subpoenas to each of the Respondents in connection with the Humana Investigation. The Commission staff properly served the Subpoenas on Respondents, pursuant to the Commission’s Rules of Practice.

6. The Subpoenas required Respondents to produce documents by May 19, 2014, and required Sutter to appear for testimony on May 21, 2014, at 10:00 a.m.

7. Respondents have told the Commission staff in writing that neither the Committee nor Sutter intends to produce documents, and that Sutter will not provide testimony, in response to the Subpoenas. To date, they have not produced a single document in response to the Subpoenas, and Sutter has not appeared for testimony.

8. The Commission therefore submits this Application for an Order to Show Cause, in the form attached, requiring (1) Respondents to show cause why they should not be ordered to produce documents responsive to the Subpoenas to the Commission staff at the Commission's New York Regional Office, Brookfield Place, 200 Vesey Street, New York, New York 10281, and (2) Sutter to show cause why he should not be ordered to appear for sworn testimony.

9. The Commission further requests that, absent just cause for Respondents' failure to comply with the Subpoenas, the Court enter an order requiring Respondents to comply with the Subpoenas within thirty (30) days.

10. The Court has jurisdiction over this matter and venue properly lies in this District pursuant to Section 21(c) of the Exchange Act, which provides as follows: "In case of...refusal to obey a subpoena issued to[] any person, the Commission may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on...in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records...and any failure to obey such order of the court may be punished by such court as a contempt thereof." 15 U.S.C. § 78u(c).

WHEREFORE, the Commission respectfully requests that the Court:

I.

Enter an Order to Show Cause, directing each of the Respondents to show cause why this Court should not enter an Order requiring his or its production of the subpoenaed documents, and directing Sutter to provide sworn testimony;

II.

Enter an Order requiring each of the Respondents to comply fully with the subpoenas within thirty (30) days;

III.

Enter an Order requiring any Respondent claiming not to have documents within his or its possession, custody, or control that are responsive to any document request contained in the Subpoenas to submit a sworn statement to the Commission describing efforts made to locate responsive documents and the results of those efforts; and

IV.

Order such other and further relief as may be necessary and appropriate to achieve compliance with the Subpoenas within the time period set forth in the proposed Order to Show Cause.

Dated: June 20, 2014
New York, New York

SECURITIES AND EXCHANGE COMMISSION

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